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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,099	02/19/2004	Kelly S. Smith	23-0296	4754
40158	7590	01/24/2006	EXAMINER	
WOODS FULLER SHULTZ & SMITH P.C. ATTN: JEFFREY A. PROEHL P.O. BOX 5027 SIOUX FALLS, SD 57117			GOODWIN, JEANNE M	
			ART UNIT	PAPER NUMBER
			2841	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/782,099

Applicant(s)

SMITH, KELLY S.

Examiner

Jeanne-Marguerite Goodwin

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification is finally objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "POSTAL TIME" as stated in claim 2.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 is finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The term "POSTAL TIME" in claim 2 is a relative term which renders the claim indefinite. The term "POSTAL TIME" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Accordingly, the claim 2 has not been further treated on the merits.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2841

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-6 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,809,993 to Müller et al. [hereinafter Müller] in view of US Patent 3,117,412 to Malone.

Regarding claim 1: Müller discloses a watch for displaying a time to be read by a user, the watch comprising:

a housing assembly having a size making capable of being worn by a user on an arm of the user (see Fig. 3a or 3b);

a timing assembly (2) being positioned in the housing assembly, the timing assembly being inherently operationally coupled to a power supply such that the power supply supplies power the timing assembly, the timing assembly being adapted for providing a pulse every second when the power supply supplies power to the timing assembly;

a processing assembly (14) (col., 8, lines 2-7) being positioned in the housing assembly, inherently the processing assembly being operationally coupled to the power supply such that the power supply supplies power to the processing assembly, the processing assembly being operationally coupled to the timing assembly such that the processing assembly receives the pulse from the timing assembly and processes the pulse into a time to be displayed on a display member operationally coupled to the processing assembly (col. 5, lines 3-6);

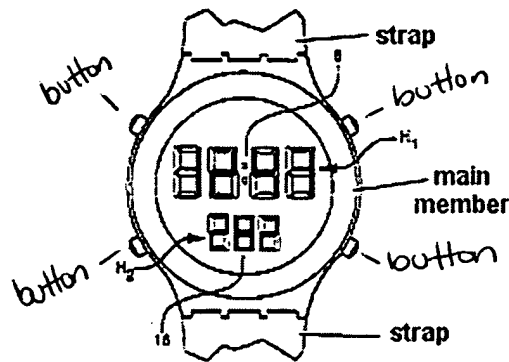
wherein the display member displays time calculated by the processing assembly (col. 8, lines 1-64), the display member simultaneously displaying time in hours and minutes and into thousandths of a day (H_1 and H_2).

Müller discloses all subject matter claimed by applicant with the exception of the latter limitation stated in claim 1, i.e., simultaneously displaying time in hours and minutes and in hours and hundredths of an hour.

Malone teaches simultaneously displaying time in hours and minutes and in hours and hundredths of an hour in order to allow the displaying of at least a first and a second time related data item and accurately determine billable rates in terms of hours, respectively. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add hundredths of an hour units to the display of Müller, in order to accurately determine billable rates in terms of hours as well. Furthermore, Müller teaches that additional display means can further be provided so as to allow additional time related data based on the H-M-S system or the decimal system to be formed and displayed (col. 5, lines 23-28).

Regarding claim 3: Müller further discloses the housing assembly comprising a main member (see figure below), the display member being coupled to the main member such that the display member is adapted for being selectively viewed by the user, the main member being adapted for being worn on the user to allow the user to selectively view the display member;

the housing assembly comprising a plurality of strap members (see figure below), inherently each of the strap members being coupled to the main member such that each of the strap members extends outwardly from the main member, one of the strap members being selectively coupled to the other one of the strap members such that the strap members form a loop, the strap members being selectively positioned around an arm of the user to couple the main member to the user.



Regarding claim 4: Müller further discloses a plurality of buttons (see figure above) being operationally coupled to the housing assembly, inherently each of the buttons being operationally coupled to the processing assembly, inherently each of the buttons being for actuating the processing assembly for altering the information displayed on the display member when the buttons are actuated by the user.

7. Claim 5 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Müller Malone as applied to claims 1, 3 and 4 above, and further in view of US Patent 5,023,850 to Metts et al. [hereinafter Metts].

The combination of Müller and Malone disclose a device as stated above with regards to claims 1, 3 and 4. The combination of Müller and Malone disclose all the subject matter claimed by applicant with the exception of the limitation stated in claim 5, i.e., the display member comprising a plurality of information display areas, wherein the display member comprising one of the information display areas displaying the date from the processing assembly.

Regarding to claim 5: Metts discloses a device comprising a display member comprising a plurality of information display areas (66, 68, 70, and 72), wherein the display member comprises one of the information display areas displaying the date (72) from the

Art Unit: 2841

processing assembly (24). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add the date function of Metts, to the device, as taught by the combination of Müller and Malone, in order to have readily available the date, and accurately determine billable rates in terms of hours, respectively.

8. Claim 6 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Müller in view of Malone and Metts.

Regarding claim 6: Müller discloses a watch for displaying time to be read by a user, the watch comprising:

a housing assembly having a size making capable of being worn by a user on an arm of the user (see Fig. 3a or 3b);

a timing assembly (2) being positioned in the housing assembly, the timing assembly being inherently operationally coupled to a power supply such that the power supply supplies power the timing assembly, the timing assembly being adapted for providing a pulse every second when the power supply supplies power to the timing assembly;

a processing assembly (14) (col., 8, lines 2-7) being positioned in the housing assembly, inherently the processing assembly being operationally coupled to the power supply such that the power supply supplies power to the processing assembly, the processing assembly being operationally coupled to the timing assembly such that the processing assembly receives the pulse from the timing assembly and processes the pulse into a time to be displayed on a display member operationally coupled to the processing assembly (col. 5, lines 3-6);

wherein the display member displays time calculated by the processing assembly (col. 8, lines 1-64), the display member simultaneously displaying time in hours and minutes and into thousandths of a day (H_1 and H_2).

the housing assembly comprising a main member (see figure above), the display member being coupled to the main member such that the display member is adapted for being selectively viewed by the user, the main member being adapted for being worn on the user to allow the user to selectively view the display member;

the housing assembly comprising a plurality of strap members (see figure above), inherently each of the strap members being coupled to the main member such that each of the strap members extends outwardly from the main member, one of the strap members being selectively coupled to the other one of the strap members such that the strap members form a loop, the strap members being selectively positioned around an arm of the user to couple the main member to the user.

a plurality of buttons (see figure above) being operationally coupled to the housing assembly, inherently each of the buttons being operationally coupled to the processing assembly, inherently each of the buttons being for actuating the processing assembly for altering the information displayed on the display member when the buttons are actuated by the user.

the display member comprising a plurality of information display areas, one of the information display areas displaying the time from the processing assembly and one of the information display areas displaying the time in hours and minutes and into thousandths of day.

Müller discloses all subject matter claimed by applicant with the exception of the limitations stated in claim 6, i.e., simultaneously displaying time in hours and minutes and in

Art Unit: 2841

hours and hundredths of an hour; wherein the display of time in hours and hundredths of an hour is displayed with a legend "POSTAL TIME"; the display member comprising one of said information display areas displaying the date from the processing assembly.

With respect to the limitation stated in claim 6, i.e., simultaneously displaying time in hours and minutes and in hours and hundredths of an hour: Malone teaches simultaneously displaying time in hours and minutes and in hours and hundredths of an hour in order to allow the displaying of at least a first and a second time related data item and accurately determine billable rates in terms of hours, respectively. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add hundredths of an hour units to the display of Müller, in order to accurately determine billable rates in terms of hours as well. Furthermore, Müller teaches that additional display means can further be provided so as to allow additional time related data based on the H-M-S system or the decimal system to be formed and displayed (col. 5, lines 23-28).

With respect to the limitation stated in claim 6, i.e., wherein the display of time in hours and hundredths of an hour is displayed with a legend "POSTAL TIME": The term "POSTAL TIME" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Accordingly, this limitation has not been further treated on the merits.

With respect to the limitation stated in claim 6, i.e., the display member comprising one of said information display areas displaying the date from the processing assembly: Metts discloses a device comprising a display member comprising a plurality of information display

Art Unit: 2841

areas (66, 68, 70, and 72), wherein the display member comprises one of the information display areas displaying the date (72) from the processing assembly (24). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add the date function of Metts, to the device, as taught by the combination of Müller and Malone, in order to have readily available the date and accurately determine billable rates in terms of hours, respectively.

Response to Arguments

9. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

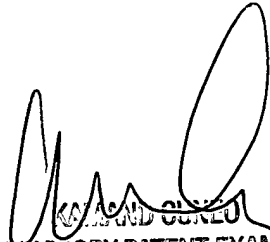
Art Unit: 2841

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP Patent 54058066 to Kajiwara et al. discloses electronic digital watch comprising simultaneously displaying time and other displays in different display units.

12. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Jeanne-Marguerite Goodwin whose telephone number is (571) 272-2104. The examiner can normally be reached on Monday-Friday (9am-6pm), alternate Fridays off. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2861.

JMG
Jan. 17, 2006



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